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| Notice of Allowability | Application No. | Applicant(s) | |
| | 10/071,881 | HOSOKAWA ET AL. | |
| | Examiner | Art Unit | |
| | Kalimah Fernandez | 2881 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to 10-17-03.
 2. The allowed claim(s) is/are 1-4.
 3. The drawings filed on 08 February 2002 are accepted by the Examiner.
 4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some* c) None of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.
5. Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - (a) The translation of the foreign language provisional application has been received.
 6. Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No. _____.
 - (b) including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____. |
| <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. _____. | <input type="checkbox"/> Examiner's Amendment/Comment |
| <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | <input type="checkbox"/> Other _____. |

DETAILED ACTION

Allowable Subject Matter

1. Claims 1-4 are allowed. The following is an examiner's statement of reasons for allowance: the prior art fails to teach or obviously suggest the claimed invention.
2. Specifically, no teaching or obvious suggestion was found of the limitation " said phase plate located beyond the back-focal plane of the objective lens....; and lenses for imaging the back-focal plane of the objective lens onto said phase plate such that position and tilt of the electron beam relative to an optical axis on said back-focal plane of the objective lens and on said phase plate are made conjugate" as in claims 1 and 3. Claims 2 and 4 are allowed by virtue of their dependency.
3. Moreover, as pointed out by applicant Gerchberg fails to teach or obviously suggest the use of a combination of a phase plate and lenses to focus the back-focal plane, wherein the lenses imaging the back-focal plane such that the position and tilt of the electron beam entering and exiting the phase plate are conjugate.
4. "Complex Observation in Electron Microscopy", Danev et al, Journal of Physical Society of Japan, vol. 70, no.3, Mar. 2001, pp. 669-702 teaches

a phase plate placed beyond the back-focal plane of the objective lens (see fig. 2c-d). However, Danev et al fails to teach a lenses imaging the back-focal plane onto the phase plate.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

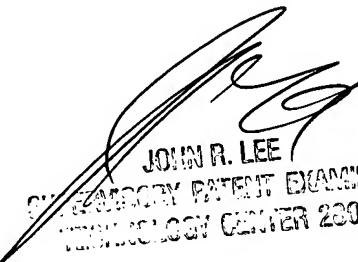
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kalimah Fernandez whose telephone number is 703-305-6310. The examiner can normally be reached on Mon-Thurs between 7:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R Lee can be reached on 703-308-4116. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9318.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

kf



JOHN R. LEE
CIVIL/MOTOR PATENT EXAMINER
TECHNOLOGY CENTER 2880